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**RECEIVED
FEDERAL ELECTION
COMMISSION**

2010 JUL 16 1:11 PM

**OFFICE OF THE
CLERK OF THE
FEDERAL ELECTION
COMMISSION**

July 15, 2010

**Federal Election Commission
999 E Street, NW
Washington, DC 20463**

Re: MUR 6296

**RESPONSE BY RESPONDENTS BUCK FOR COLORADO, KENNETH R.
BUCK, AND PERRY L. BUCK**

Kenneth Buck is the Weld County District Attorney and a candidate for United States Senate in Colorado. Buck for Colorado is Mr. Buck's principal campaign committee and Perry Buck is Mr. Buck's wife. Kenneth Salazar serves as Treasurer of Buck for Colorado. On or about June 1, 2010, each of these respondents received a letter from Jeff Janish notifying them that they had been named in a complaint filed with the Federal Election Commission. It appears that allies of Lieutenant Governor Norton have filed this frivolous complaint in an attempt to use the Commission's enforcement process for political gain. The respondents hereby request that this action be dismissed as it relates to them.

The complaint contains no evidence to support its allegations

The complainant has woven an elaborate conspiracy theory involving multiple parties and independent entities without even a scintilla of evidence of wrongdoing. The more than fifty pages of exhibits attached to the complaint contain no evidence of a violation of the Act or Commission regulations. The sole "evidence" of a violation is contained in the statements discussed below and other similar statements, none of which is substantiated by any facts submitted by the complainant.

The complaint alleges that the respondents have:

- (a) "Violated the prohibition on accepting coordinated communications paid for by individuals and/or corporations as set forth in 2 U.S.C. §441a(a)(7)(B)(i) and 11 CFR §§ 114.2(b) and 109.22";
- (b) "Violated the prohibition on accepting coordinated communications paid for by federal government contractors as set forth in 2 U.S.C. §§441 a(a)(7)(B)(i) and 441c(a) and 11 CFR §115.2(a) and 109.22";

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- (c) "Made impermissible corporate contributions to a U.S. Senate candidate and/or a federal candidate campaign committee"; and
(d) "In the case of Mrs. Buck, violated the individual campaign contribution limitations."

Each of the above claims is false.

(a) Allegation of improper coordination with individuals and/or corporations.

The complaint alleges that Mr. Buck and/or his agents coordinated with Declaration Alliance, Campaign for Liberty, and Americans for Job Security on public communications paid for by these entities. Mr. Buck, Ms. Buck, Mr. Salazar, and Mr. Walter Klein, general consultant for Buck for Colorado, have all denied that they have cooperated with, consulted with, acted in concert with, requested, or suggested that these entities, or any of their employees, officers, directors, or agents make any public communications supporting Mr. Buck's candidacy. See attached declarations of Kenneth R. Buck, Perry L. Buck, Kenneth Salazar, and Walter Klein.

The complaint contains no evidence of any kind to support this claim. Therefore, this allegation should be immediately dismissed by the Commission.

(b) Allegation of improper coordination with a federal government contractor.

The complaint alleges that Mr. Buck and/or his agents coordinated with Hensel Phelps Construction and/or Jerry Morgensen to fund independent expenditures made by Declaration Alliance, Campaign for Liberty, and Americans for Job Security. Mr. Buck, Ms. Buck, Mr. Salazar, and Mr. Klein have all denied that they have cooperated with, consulted with, acted in concert with, requested, or suggested that Hensel Phelps Construction, or any of its employees, officers, directors, or agents, including Mr. Morgensen, make any public communications supporting Mr. Buck's candidacy. See declarations of Kenneth R. Buck, Perry L. Buck, Kenneth Salazar, and Walter Klein.

The complaint contains no evidence of any kind to support this claim. Therefore, this allegation should be immediately dismissed by the Commission.

(c) Allegation of making impermissible corporate contributions.

On its face, this allegation does not apply to Mr. Buck or his campaign. However, to the extent that the allegation suggests that Buck for Colorado has improperly accepted corporate contributions, it is entirely without merit. Mr. Buck, Mr. Salazar, and Mr. Klein have all denied accepting corporate contributions to support Buck for Colorado and affirmed that to the best of their knowledge, all contributions have been accurately reported. See declarations of Kenneth R. Buck, Kenneth Salazar, and Walter Klein.

The complaint contains no evidence of any kind to support this claim. Therefore, this allegation should be immediately dismissed by the Commission.

(d) Allegation of an excessive contribution by Ms. Buck.

The complaint alleges that Ms. Buck made an excessive contribution to Buck for Colorado by providing the security for a loan that Mr. Buck made to his campaign. The complaint alleges, based on no facts whatsoever, that the \$100,000 personal loan from Mr. Buck to his campaign was secured by a deed of trust on a home jointly owned by Mr. and Ms. Buck. In fact, the money loaned by Mr. Buck to his campaign was from the sale of stock that he inherited when his mother passed away in 2008. The loan was not secured by any real property jointly owned by Mr. and Ms. Buck. See declaration of Kenneth R. Buck.

The complaint contains no evidence of any kind to support this claim. Therefore, this allegation should be immediately dismissed by the Commission.

The complaint fails to comply with the Act and Commission regulations.

The requirements for a complaint filed with the Commission are outlined in 11 CFR 111.4. The complaint does not satisfy the requirements of this section, and therefore this matter must be dismissed.

The allegations are not accompanied by the evidence required by 11 CFR 111.4(d)(2).

The Commission's regulations at 11 CFR 111.4(c) state that, "The complaint should differentiate between those statements based upon personal knowledge and statements made upon information and belief." Additionally, section 111.4(d)(2) requires that, "Statements which are not based upon personal knowledge should be accompanied by an identification of the source of the information which gives rise to the complainant's belief in the truth of such statements."

The complaint filed against the respondents makes a number of allegations based solely upon information and belief but without any identification of the source of the information, as required by 111.4(d)(2).¹ Because the Commission is barred under its regulations from considering the allegations that are unsupported by the evidence required in 111.4(d)(2), the Commission must consider the complaint with each of those statements stricken. Once these statements are removed, the complaint no longer alleges a violation of the Act or Commission regulations and therefore should be dismissed.

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- ¹ "Upon information and belief, one of its principal agents or employees is John Hotelling, Attorney-at-Law, Denver, CO." (page 2)
 - "Upon information and belief, thus far in 2009 and 2010, Hensel Phelps has been awarded approximately \$433 million in federal government contracts." (page 2)
 - "Morgenson is a resident of Greeley, CO, and is, upon information and belief, a member of the finance or fundraising committee of the Buck Committee." (page 2)
 - "Upon information and belief, Buck has advised Morgenson and other potential Buck donors who are financially able to contribute more than the maximum allowable contribution of \$2,400 to make excess contributions to Declaration Alliance in care of John Hotelling." (page 3)
 - "Just before that, in January 2010, intending to benefit Buck and the Buck Committee and, upon information and belief, with the involvement of John Hotelling, Campaign for Liberty used funds furnished to it by Hensel Phelps and/or Morgenson and/or other individuals who have contributed in excess of the maximum allowable contribution limit of \$2,400 per individual to spend approximately \$329,000 on a television ad campaign attacking one of Buck's potential primary opponents." (page 3)
 - "Upon information and belief, these contributions in excess of allowable contributions [sic] limits were furnished to AJS upon instructions from John Hotelling." (page 2)
 - "As is clear from the foregoing, the Declaration Alliance, Campaign for Liberty and AJS television ad buys made for the benefit of Buck and the Buck Committee and the AJS campaign literature promoting Buck for Senate mailed to Colorado citizens were financed, upon information and belief, by Morgenson, Hensel Phelps, other contributors, Cache Buck and Trust, Greeley, CO, and/or Mrs. Buck to the extent of her joint ownership interest in the Greeley Townhouse." (page 4)

The failure to provide the evidence required by 111.4(d)(2) is not a mere technical violation. The regulation exists to protect innocent individuals from being subject to an intrusive government investigation without some evidence to support the allegations against them. The Commission is obligated to adhere to its regulations and strike each of the statements above from the complaint. Once these statements are excised, the complaint no longer alleges a violation of the Act or Commission regulations, and therefore should be dismissed.

Conclusion

The complaint filed with the Commission contains no evidence to suggest that this is anything but a political publicity stunt. In addition, the complaint relies solely on inadmissible statements as its basis for the suggestion that the respondents have violated the Act. Therefore, we respectfully request that this matter be dismissed as it relates to Buck for Colorado, Kenneth R. Buck, and Perry L. Buck.

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FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL
Please use one form for each Respondent/Entity/Treasurer
FACR(2002) 210-3023

MUR # 6296

NAME OF COUNSEL: James A. Silverind

FIRM: Reed & Davidson, LLP

ADDRESS: 3699 Wilshire Blvd. Suite 1250

Los Angeles, CA 90010

TELEPHONE- OFFICE (213) 402 - 4573

FAX (213) 623 - 1672

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

7/13/2010
Date

[Signature]
Respondent/Agent - Signature

Treasurer
Title (Treasurer/Candidate/Owner)

NAMED RESPONDENT: Mark Ray Colorado / Kenneth Salazar, Treasurer

MAILING ADDRESS: _____
(Please Print)

TELEPHONE- HOME () _____

BUSINESS () _____

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(2)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

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**FEDERAL ELECTION COMMISSION**

999 E Street, NW

Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSELPlease use *one* form for each Respondent/Entity/Treasurer.FAX (202) 219-9823**MUR #** 6296**NAME OF COUNSEL:** James A. Sivaseind**FIRM:** Reed & Davidson, LLP**ADDRESS:** 3699 Wilshire Blvd. Suite 1290Los Angeles, CA 90010**TELEPHONE- OFFICE** (213) 402 - 4573**FAX** (213) 623 - 1692

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

7/14/10
DateKenneth R. Buck
Respondent/Agent - SignatureCandidate
Title (Treasurer/Candidate/Owner)**NAMED RESPONDENT:** Kenneth R. Buck**MAILING ADDRESS:**
(Please Print)Greeley, CO 80634**TELEPHONE- HOME****BUSINESS** (720) 377-9015

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.



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999 E Street, NW
Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL
Please use one form for each Respondent/Entity/Treasurer
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NAME OF COUNSEL: James A. Sivesind

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FAX (213) 623 - 1692

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

_____	_____	_____
Date	Respondent/Agent - Signature	Title (Treasurer/Candidate/Owner)

NAMED RESPONDENT: Perry L. Buck

MAILING ADDRESS: _____
(Please Print)

TELEPHONE- HOME (_____) _____

BUSINESS (_____) _____

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation

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